



BILLING CODE 4810-25-P

DEPARTMENT OF THE TREASURY

Terrorism Risk Insurance Program 2018 Data Call

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Request for comments.

SUMMARY: Pursuant to the Terrorism Risk Insurance Act of 2002 (TRIA),¹ the Federal Insurance Office (FIO) requests public feedback on the proposed consolidation of the separate federal and state data calls regarding terrorism risk insurance, and the proposed data collection forms for use in the 2018 data call. Copies of these forms and associated explanatory materials (including a document identifying specific changes to the reporting templates and instructions as previously used by Treasury) are available for electronic review on the Treasury website at <https://www.treasury.gov/resource-center/fin-mkts/Pages/program.aspx>. State insurance regulators, through the National Association of Insurance Commissioners (NAIC), will also be separately seeking comment from stakeholders on the proposal.

DATES: Submit comments on or before **[INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit comments electronically through the Federal eRulemaking Portal: <http://www.regulations.gov>, or by mail to the Federal Insurance Office, Attn: Richard Ifft, Room 1410 MT, Department of the Treasury, 1500 Pennsylvania Avenue NW,

¹ Public Law 107-297, 116 Stat. 2322, codified at 15 U.S.C. 6701, note. Because the provisions of TRIA (as amended) appear in a note, instead of particular sections, of the United States Code, the provisions of TRIA are identified by the sections of the law.

Washington, DC 20220. Because postal mail may be subject to processing delays, it is recommended that comments be submitted electronically. If submitting comments by mail, please submit an original version with two copies. Comments concerning the proposed data collection forms and collection process should be captioned with “2018 TRIP Data Collection Comments.” Please include your name, group affiliation, address, email address, and telephone number(s) in your comment. Where appropriate, a comment should include a short Executive Summary (no more than five single-spaced pages).

FOR FURTHER INFORMATION CONTACT: Richard Ifft, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, Room 1410 MT, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220, at (202) 622-2922 (not a toll-free number), Lindsey Baldwin, Senior Policy Analyst, Federal Insurance Office, at (202) 622-3220 (not a toll free number), or Kevin Meehan, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, at (202) 622-7009 (not a toll-free number). Persons who have difficulty hearing or speaking may access these numbers via TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION:

I. Background and Proposed Consolidated Approach

TRIA created the Terrorism Risk Insurance Program (Program) within the U.S. Department of the Treasury (Treasury) to address disruptions in the market for terrorism risk insurance, to help ensure the continued availability and affordability of commercial property and casualty insurance for terrorism risk, and to allow for the private markets to stabilize and build insurance capacity to absorb any future losses for terrorism events.

The Program has been reauthorized on a number of occasions, most recently in the Terrorism Risk Insurance Program Reauthorization Act of 2015 (2015 Reauthorization Act).² Section 111 of the 2015 Reauthorization Act³ (Section 111) requires the Secretary of the Treasury (Secretary) to perform periodic analyses of certain matters concerning the Program. In order to assist the Secretary with this process, Section 111 requires insurers to submit on an annual basis certain insurance data and information regarding their participation in the Program. FIO is authorized to assist the Secretary in the administration of the Program.⁴

Treasury began collecting data from insurers in 2016 on a voluntary basis,⁵ and on a mandatory basis in 2017.⁶ Treasury also arranged in 2017 for workers' compensation rating bureaus to provide most of the workers' compensation insurance data elements.⁷ 31 CFR 50.51 requires insurers to submit the specified data no later than May 15 of each calendar year. Treasury, through an insurance statistical aggregator, uses a web portal through which insurers must submit the requested data. All information submitted via the web portal is subject to the confidentiality and data protection provisions of applicable federal law.

State insurance regulators also began annually collecting data relating to terrorism risk insurance in 2016. The state insurance regulator data calls have sought information similar to that collected by Treasury, although in some cases on a more detailed, granular basis. Given the similarity of the information sought, and the burden

² Public Law 114-1, 129 Stat. 3.

³ TRIA sec. 104(h).

⁴ 31 U.S.C. 313(c)(1)(D).

⁵ 81 FR 11649 (March 4, 2016).

⁶ A reporting exemption was extended to small insurers that wrote less than \$10 million in TRIP-eligible lines premium in 2016. *See* 81 FR 95310 (December 27, 2016); 82 FR 20420 (May 1, 2017).

⁷ 82 FR 20420 (May 1, 2017).

presented to insurers by the existence of dual data calls on the same subject, Treasury and state insurance regulators have sought to create a consolidated data call for 2018 that will satisfy each of their respective objectives. For the 2018 data call, Treasury and state insurance regulators have agreed on joint reporting templates substantially similar to those used by Treasury in prior years, subject to minor changes based upon experience gained from the 2017 data call, coordination with state insurance regulators and the NAIC, and feedback from participating insurers. The most significant changes are identified below.

Insurers subject to the consolidated data call will report on a group basis, if part of a group, and otherwise will report on an individual company basis. Insurers with property exposures will also be required to submit to state insurance regulators, on an individual company basis, an additional supplement focusing on the property lines of insurance subject to the Program. This supplement calls for data with respect to geographic exposures by ZIP Code.

II. Changes to Data Collection Templates

Pursuant to Section 111 of the 2015 Reauthorization Act, Treasury has coordinated with publicly available sources to collect information for the 2018 data call. Information relating to workers' compensation exposures is available from the workers' compensation rating bureaus, and those entities have agreed to provide that information on behalf of participating insurers. Treasury has determined, however, that all other data components remain unavailable from other sources. Accordingly, Treasury will continue to request this remaining data and information directly from insurers. However, Treasury's analysis indicates that the proposed consolidated approach for the 2018 data

call will result in a significant reduction in overall data collection burdens for participating insurers.

After coordinating with state insurance regulators, Treasury again proposes to use four different data collection templates (see 31 CFR 50.51(c)), depending upon the type of insurer involved. Insurers will fill out the template identified “Insurer (Non-Small) Groups or Companies,” unless the insurer meets the definition of a small insurer, captive insurer, or alien surplus lines insurer as set forth in 31 CFR 50.4. Such small insurers, captive insurers, and alien surplus lines insurers are required to complete separate tailored templates. Each template will be accompanied by separate instructions providing guidance on each data element.

There are four global changes to the proposed reporting templates for 2018. First, all reporting templates will now include a standalone cyber insurance worksheet. Second, the reinsurance worksheet that is required for non-small insurers, alien surplus lines insurers, and captive insurers will include a new modeled loss question.⁸ Third, the exposures worksheet (required for all insurers) will request information concerning policyholder deductibles and retention amounts, in addition to insurer exposure under policies subject to the Program. Fourth, the reporting templates no longer seek premium information on terrorism risk insurance for years prior to the reporting period.⁹ In addition to these four changes, the instructions for each reporting template will contain clarifications on how to report specific data elements.

⁸ Small insurers complete a separate reinsurance worksheet that does not contain a modeled loss question.

⁹ For purposes of future reports, Treasury will use the information received during the 2017 data call, and continue to update this information over time as subsequent data calls are completed.

There are also a number of changes for specific insurer categories. For the 2018 data call (requesting insurer data for calendar year 2017), an insurer will qualify as a small insurer if it had both 2016 policyholder surplus and 2016 direct earned premium in the TRIP-eligible lines of insurance of less than \$700 million.¹⁰ Small insurers that had TRIP-eligible direct earned premium of less than \$10 million in 2017 will be exempt from the 2018 consolidated TRIP data call.¹¹ Neither captive insurers nor alien surplus lines insurers are eligible for this reporting exemption.

In addition to the global changes identified above, small insurers will be required to report additional information on standalone terrorism policies (in addition to the new standalone cyber insurance policy worksheet). In addition, small insurers will now report their largest estimated probable maximum loss at a single location, and the ZIP code of that location, on the reinsurance worksheet. Insurers defined as small insurers for the 2018 data call will report the same information to Treasury (on a group basis) and state insurance regulators (also on a group basis), except with respect to property coverages, for which insurers will also provide additional reporting on an individual company basis in the property supplement submitted solely to state insurance regulators. State insurance regulators will provide their own guidance regarding the submission of data for the state property supplement.

¹⁰ Small insurers are defined in 31 CFR 50.4(z) as insurers (or an affiliated group of insurers) whose policyholder surplus for the immediately preceding year is less than five times the Program Trigger for the current year, and whose TRIP-eligible lines direct earned premium for the previous year is also five times less than the Program Trigger. Accordingly, for the 2018 data call, an insurer qualifies as a small insurer if its 2016 policyholder surplus and 2016 direct earned premium are less than five times the 2017 Program Trigger of \$140 million.

¹¹ To the extent an insurer with less than this level of TRIP-eligible lines direct earned premium is part of a larger group that is required to report, the insurer must report as part of the group as a whole, even if it is under the \$10,000,000 direct earned premium threshold on an individual basis. Individual company information for such entities must also be reported to state insurance regulators.

In addition to the global changes identified above, non-small insurers will no longer be required to complete a separate worksheet on package/multi-line policies. The non-small insurer template should be completed by insurance groups (or individual insurers not affiliated with a group) that had either a 2016 policyholder surplus or 2016 direct earned premium in the TRIP-eligible lines of insurance equal to or greater than \$700 million, and are not otherwise captive insurers or alien surplus lines insurers. Insurers defined as non-small insurers for the 2018 data call will report the same information to Treasury (on a group basis) and state insurance regulators (also on a group basis), except with respect to property coverages. For property coverages, insurers will also provide additional reporting on an individual company basis in a property supplement submitted solely to state insurance regulators. As noted above, state insurance regulators will provide their own guidance regarding the submission of data for the state property supplement.

In addition to the global changes identified above, captive insurers will no longer be required to complete a separate worksheet for workers' compensation deductible policies, as this information will now be collected on the general premium worksheet. Captive insurers are defined in 31 CFR 50.4(g) as insurers licensed under the captive insurance laws or regulations of any state. As in 2017, captive insurers that write policies in TRIP-eligible lines of insurance are required to report in 2018, unless they do not provide their insureds with any terrorism risk insurance subject to the Program.

The reporting template for alien surplus lines insurers does not contain changes, other than the global changes identified above. Alien surplus lines insurers are defined in 31 CFR 50.4(o)(1)(i)(B) as insurers not licensed or admitted to engage in the business of

providing primary or excess insurance in any state, but that are eligible surplus line insurers listed on the NAIC Quarterly Listing of Alien Insurers. Alien surplus lines insurers that are part of a larger group classified as a non-small insurer or a small insurer should report as part of the group, using the appropriate template. Therefore, the alien surplus lines insurer template should only be used by an alien surplus lines insurer that is not part of a larger group subject to the 2018 data call. Insurers defined as alien surplus lines insurers for the 2018 data call will report their information to Treasury and provide an identical copy to state insurance regulators.¹²

III. Submission of Data

Following registration with the data aggregator, all insurers will be provided with the appropriate reporting templates for completion. Insurers will be required to submit the completed reporting templates through a secure web portal provided by the data aggregator. All data must be provided no later than May 15, 2018, which will also be the reporting deadline for state insurance regulators. Treasury intends to provide training and provide additional resources throughout the data collection period to facilitate the proper completion of reporting templates.

To permit greater flexibility in the submission of data, Treasury will permit the submission of completed reporting templates in .csv file format, consistent with the format currently used by state insurance regulators. Treasury will provide further guidance on how this can be accomplished in a later notice or web posting. Responding

¹² For 2017, state insurance regulators collected terrorism risk insurance data from alien surplus lines insurers through the NAIC's International Insurers Department (IID).

companies may also continue to report using the templates (in Excel format) used in prior years.

Reporting under the 2018 data call will be mandatory for all commercial property and casualty insurers writing insurance in lines subject to TRIA, unless the insurer falls within the exceptions for certain small insurers and captive insurers identified above.

IV. Request for Comments

To ensure efficient and accurate completion of the forms, Treasury is requesting public feedback on the content of the 2018 data call reporting templates, and the consolidated approach to the separate federal and state reporting outlined in this Request for Comments. The proposed forms are available for review at <https://www.treasury.gov/resource-center/fin-mkts/Pages/program.aspx>

V. Procedural Requirements

Paperwork Reduction Act. The collection of information contained in this notice will be submitted to the Office of Management and Budget (OMB) for review under the requirements of the Paperwork Reduction Act, 44 U.S.C. 3507(d). Comments should be sent to Treasury in the form discussed in the ADDRESSES section of this notice.

Comments on the collection of information should be received by **[INSERT DATE THAT IS 60 DAYS AFTER DATE OF PUBLICATION]**.

Comments are being sought with respect to the collection of information in the proposed Terrorism Risk Insurance Program 2018 data call. *Treasury specifically invites comments on:* (a) Whether the proposed collection is responsive to the statutory requirement; (b) the accuracy of the estimate of the burden of the collections of information (*see below*); (c) ways to enhance the quality, utility, and clarity of the

information collection; (d) ways to use automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to maintain the information.

Treasury previously analyzed the potential burdens associated with the 2017 data call. See 81 FR 95310, 95312 (December 27, 2016). The information sought by Treasury comprises data elements that insurers currently collect or generate, although not necessarily grouped together the way in which insurers currently collect and evaluate the data. Based upon insurer submissions to the 2017 data call, Treasury estimates that for purposes of the 2018 data call, approximately 100 Program participants will be required to submit the “Insurer (Non-Small) Groups or Companies” data collection form, 200 Program participants will be required to submit the “Small Insurer” form, 400 Program participants will be required to submit the “Captive Insurer” form, and 25 Program participants will be required to submit the “Alien Surplus Lines Insurers” form.

Each set of reporting templates is expected to incur a different level of burden. The changes to the proposed data reporting elements in 2018 are not anticipated to have a material impact on Treasury’s prior burden estimates. Treasury anticipates approximately 75 hours will be required to collect, process, and report the data for each non-small insurer, approximately 25 hours will be required to collect, process, and report data for each small insurer, and 50 hours will be required to collect, process, and report data for each captive insurer and alien surplus lines insurer. Due to the proposed consolidation of the separate federal and state data calls, however, the total burden upon reporting insurers overall (once state and federal obligations are accounted for) will be materially reduced for most insurers.

Assuming this breakdown, and when applied to the number of reporting insurers anticipated in light of the experience of the 2017 data call, the estimated annual burden would be 33,750 hours ((100 insurers x 75 hours) + (200 insurers x 25 hours) + (400 insurers x 50 hours) + (25 insurers x 50 hours)). At a blended, fully loaded hourly rate of \$85, the cost would be \$2,868,750 across the industry as a whole, or \$6,375 per non-small insurer, \$2,125 per small insurer, and \$4,250 each per captive insurer or alien surplus lines insurer.

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